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IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 558 of 1997

in

SPECIAL CIVIL APPLICATION No 2420 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.THAKKER and

Hon'ble MR.JUSTICE S.D.PANDIT

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1. Whether Reporters of Local Papers may be allowed
to see the judgements? No.

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2. To be referred to the Reporter or not? No.

3. Whether Their Lordships wish to see the fair copy
of the judgement? No.

4. Whether this case involves a substantial question
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder? No.

5. Whether it is to be circulated to the Civil Judge?
No.

WIPRO LIMITED

Versus

BHAVNAGAR ELECTRICITY CO LTD.

Appearance:

MR MANISH R BHATT for Petitioner
MR RD RAVAL for Respondent No. 1

CORAM : MR.JUSTICE C.K.THAKKER and
MR.JUSTICE S.D.PANDIT

Date of decision: 28/06/97

ORAL JUDGEMENT(Per: Thakker.J)

This appeal is directed against an interim order passed by the learned single Judge in Special Civil Application No. 2470 of 1997 on May 2,1997.

2. The appellant is the original petitioner who has filed the said petition against an award passed by the Labour Court, Rajkot in Reference (LCB) No.88/83 to 95/83, 566/83 & 219/83 (New Nos. 51/87 to 60/87). The learned single Judge after hearing the parties felt that the matter requires consideration and hence Rule was issued. On interim relief it was observed:

"...Rule is made returnable on 17.6.97. In the meantime by way of ad-interim relief, the following order is passed....."

The learned single Judge thereafter stated

" This is a case of triangular dispute between the petitioner, Bhavnagar Electricity Company and the contesting workmen. In this view of the matter, I find it appropriate to pass the final interim orders after hearing Bhavnagar Electricity Company...."

(Emphasis supplied)

In our opinion , the order passed by the learned single Judge, is really an ad-interim order. We are told at the Bar that the main matter is pending before the learned single Judge and it is board even today. Earlier also when the matter was placed before a Division Bench, it was stated that , the Industrial Tribunal which was seized of the matter and the Tribunal may not be guided by certain observations made by the learned single Judge. The Division Bench by an order dated 9.5.97 observed under:

"Heard Shri R.P.Bhatt , Sr. Advocate with Mr. M.R.Bhatt for the appellant and Mr. Raval for the respondent. Although this matter has been heard at length Mr. Raval requests that the parties be afforded with an opportunity to make further submissions. S.O. to 24.6.1997."

Mr. Bhatt contended that even if it is assumed that the order is an ad-interim nature, it is wholly without jurisdiction and the learned single Judge had no jurisdiction to pass such order. Mr Raval, on the other hand submitted that order is ad-interim in nature and no appeal should be entertained at this stage.

2. In our opinion it may not be necessary to enter into facts of the case and express any opinion on the submissions made by the parties. We may state that since the order is ad-interim one and all the observations made by the learned single Judge in his order dated May 2,1997 are prima-facie observations and in view of the fact that the matter has been placed for hearing of interim relief it is not advisable to entertain LPA at this stage. It is clear from the order itself that appropriate orders will be passed after hearing the parties. In these circumstances we do not think it proper to entertain this appeal and the same is accordingly disposed of.

3. We may clarify that it is open to the parties to raise all contentions available to them in accordance with law and the learned single Judge will decide them after appreciating the facts and circumstances of the case.

4. For the reasons stated above the appeal requires to be disposed of and accordingly dispose of without observing anything on merits. No costs.

(C.K.Thakker.J)

(S.D.Pandit.J)